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SUPREME COURT
OF
THE UNITED STATES

OCTOBER TERM, 1974

No. 73-1389

STATE OF WASHINGTON
Plaintiff

vs.

CHARLES FREDRICK TRADEWELL,
Defendant

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

W. GORDON KELLY
Counsel for Petitioner
P. O. Box 653
Wenatchee, Washington 98801

SUPREME COURT
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THE UNITED STATES

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INDEX

Page

Opinion Below 1

Jurisdiction 2

Question Presented 2

Constitutional Provision Involved 2

Statement of the Case 2

Reasons Relied on for the Allowance of the Writ.... 5

Conclusion 9

APPENDICES:

Appendix A — Order of the Supreme Court of Washington Denying Petition for Review .. 10

Appendix B — Order of Court of Appeals Remitting Cause to Superior Court 11

Appendix C — Order of Court of Appeals Denying Petition for Rehearing 13

Appendix D — Opinion of the Court of Appeals of the State of Washington 14

Appendix E — Amended Judgment and Sentence of Douglas County Superior Court.... 19

CITATIONS

CASES: *Page*

Alexander vs. United States,
380 F 2d 33 (8th Cir. 1967) 5

Commonwealth vs. Pomponi,
447 Pa 154, 284 A2d 708 (1971) 6

Maynard Investment vs. McCann,
77 Wn. 2d 616, 465 P 2d 657 (1970) 8-18

Miranda vs. Arizona, 384 U.S. 436,
16 L Ed 2d 694, 86 S. Ct. 1062 (1966) 6

Peoples' National Bank vs. Peterson,
82 Wn. 2d 822, 514 P 2d 159 (1973) 8-17

People vs. Abdul Karim Al Kanani,
26 N.Y. 2d 473, 260 N.E. 2d 496 (1970) 6

People vs. Combes,
56 Cal 2d 135, 14 Cal Rptr 4, 363 P 2d 4 (1961) 5

Schmerber vs. California, 384 U.S. 757,
86 S. Ct. 1826, 16 L Ed. 2d 908 (1966) 7

State ex rel. Cosmopolis Consol. School No. 99 vs. Bruno, 61 Wn. 2d 461, 378 P 2d 691 (1963)..8-18

State vs. Ogson,
274 Minn. 225, 143 N.W. 2d 69 (1966) 6

State vs. Whitlow,
45 N.J. 3, 210 P 2d 763 (1965) 5

United Brotherhood C.J. vs. United States, 300 U.S.
395, 91 L. Ed. 973, 67 S. Ct., 775 (1946) 8

United States vs. Albright,
388 F 2d 719 (4th Cir. 1968) 5

United States vs. Atkinson,
297 U.S. 157, 80 L Ed. 555, 56 S. Ct. 391 (1936) 8

CASES: Page

United States vs. Baird,
414 F 2d 700 (2nd Cir. 1969) 5

United States vs. Wade, 388 U.S. 218,
87 S. Ct. 1926, 18 L. Ed. 2d 1149 (1967) 7

State vs. Gibson,
3 Wn. App. 596, 476 P. 2d 727 (1970) 15

Phipps vs. Sasser,
74 Wn. 2d 439, 448 445 P. 2d 624 (1968) 16

In Re Estate of Quick,
161 Wn. 537, 297 P. 198 (1931) 16

McUne vs. Fuqua,
42 Wn. 2d 65, 253 P. 2d 632 (1953) 16

Randa vs. Bear,
50 Wn. 2d 415, 421, 312 P. 2d 640 (1957) 16

Weems vs. United States,
217 U.S. 349, 54 L. Ed. 793, 30 S. Ct. 554 (1910) 8

CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS

Fifth Amendment

SUPREME COURT
OF
THE UNITED STATES

OCTOBER TERM, 1974

No._____

STATE OF WASHINGTON
Plaintiff

vs.

CHARLES FREDRICK TRADEWELL,
Defendant

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

Petitioner respectfully prays that a writ of certiorari issue to review the final order of the Supreme Court of the State of Washington entered herein on December 18, 1973, upholding the conviction of the petitioner on one count of assault in the first degree and four counts of assault in the second degree.

Opinion Below

The petitioner was convicted in a trial by jury. The Amended Judgment is attached, infra, at Appendix E, page 19. The opinion of the Court of Appeals of the State of Washington, infra, at Appendix D, page 14 is reported in 9 Wn. App. 821. A Petition for Rehearing was subsequently denied, infra, Appendix C, page 13. The Supreme Court of the State of Washington denied a Petition for Review, infra, Appendix A, page 11, reported in 83 Wn. 2d 1005. The cause was thereupon remitted to the Douglas County Superior Court, infra, Appendix B, page 11.

Jurisdiction

The final Order of the Washington State Supreme Court was made and entered on December the 18th, 1973, and is appended hereto, infra at Appendix A, page 10. The jurisdiction of this court is invoked under 28 USC, § 1257 (3).

Question Presented

Is the defendant's Fifth Amendment right against self-incrimination violated when the state calls as an expert witness a psychiatrist who conducted a psychiatric examination of the defendant as a treating physician, and who later conducted a subsequent psychiatric examination of the defendant at the request of the state, when the defendant was not advised of his right to remain silent at the time of the first examination?

Constitutional and Regulatory Provisions Involved

The principal constitutional provision involved is the Fifth Amendment to the United States Constitution.

Statement of the Case

On Christmas day, 1971, a near tragic episode took place beginning at the home of the petitioner, where he resided with his wife, and continuing onto a public roadway located in Douglas County, near the town of East Wenatchee.

The pertinent facts of the events are not material to this Petition and therefore omitted, except to say that following the petitioner's apprehension by several police officers, he was taken to a local hospital for treatment. The treating physician was Dr. Gerald Gibbons, who, under the circumstances surrounding the petitioner's attitude and demeanor, called Dr. Harry David Hunter, Wenatchee's only psychiatrist, to the case as a

consultant. Dr. Hunter made a limited psychiatric examination on December 26, 1971.

As a result of the Christmas day occurrence, the petitioner was charged in the Douglas County Superior Court with one count of assault in the first degree while armed with a deadly weapon, and four counts of assault in the second degree while armed with a deadly weapon. To these counts the petitioner entered his plea of not guilty and his special plea of not guilty by reason of insanity or mental irresponsibility existing at the time of the occurrence of the alleged act.

Subsequent to the time of entry of the plea and special plea, the Prosecuting Attorney of Douglas County served his plaintiff's List of Witnesses upon petitioner's counsel, which said List of Witnesses included the attending doctor, Dr. Gerald Gibbons, M.D., and Dr. Harry David Hunter, M.D. At the request of the Douglas County Prosecuting Attorney, Dr. Hunter had again examined the petitioner on February 14, 1972.

Immediately upon receipt of the list of Witnesses, the petitioner, through his attorney wrote to the Prosecuting Attorney of Douglas County, Washington, stating that the question of privity would not be waived by the petitioner at the time of trial (Exhibit 16).

Dr. Harry David Hunter was not listed on the Petitioner's List of Witnesses, and was called as a rebuttal witness by the State. Dr. Hunter was permitted to testify over the objection of the petitioner as to privity.

Dr. Hunter testified that he would not be able to segregate in his own mind and in his testimony the interview with the petitioner when he was called as a consulting physician by the attending physician, and the interview made sometime subsequent thereto when he was asked to examine the petitioner by the Douglas

County Prosecuting Attorney. (Statement of Fact, pages 11 and 12).

The State then chose, over the continued objection of the defendant, preserved in the record, to make inquiry of the witness, Dr. Hunter, in the presence of the jury, as to both examinations.

Following the conclusion of Dr. Hunter's testimony, the petitioner made a Motion for Mistrial for permitting the witness to testify as to privileged information. The motion was denied by the Court. (Statement of Facts, pages 22 and 23).

On March 8, 1972, the petitioner was convicted of one count of first degree assault and four counts of second degree assault. Appeal was taken to the Court of Appeals of the State of Washington raising the following issues: (1) whether the State physician-patient privilege applied to the testimony of Dr. Hunter (RCW 5.60.060) (4), and (2) whether the petitioner's Fifth Amendment Rights were violated by the testimony of Dr. Hunter as to the first examination of the petitioner. The latter issue was raised for the first time on appeal. On October 24th, 1973, the Court of Appeals upheld the conviction of the petitioner. In the opinion (attached herein as part of the Appendix) the court held that the physician-patient privilege did not apply to the case in question. The court refused to decide the Fifth Amendment question on the ground that objection should have been made on this issue at the time of trial and not in the Court of Appeals. The petitioner thereupon petitioned for a re-hearing before the Court of Appeals which was denied on the 12th day of November, 1973.

Subsequently the petitioner sought review before Washington State Supreme Court. The Petition for Review was denied on December the 18th, 1973, and under Rule I50 of the Supreme Court Rules on Appeal

of the State of Washington, there may be no petition for Re-hearing where the court does not file a written opinion. The courts of the State of Washington, therefore, have refused to rule upone the constitutional claim of the petitioner.

Reasons Relief on for the Allowance of the Writ

This case represents a situation in which a psychiatrist examined a criminal defendant twice once as a treating physician and once as a state appointed psychiatrist. The first examination was performed merely as a treating physician. At this first examination the petitioner was under sedation and chained to his bed. Since, at this time, Dr. Hunter, the psychiatrist, had no connection with the State, no warnings against self-incrimination were given to the petitioner and the petitioner's attorney was not present.

The issue that presents itself is wheather a criminal defendant's Fifth Amendment right against self-incrimination is violated by the testimony of a psychiatrist who conducted the psychiatric examination of the petitioner as a treating physician.

Some Courts have held that a criminal defendant may be compelled to answer questions put to him by a court appointed psychiatrist when the defendant asserts the defense of insanity. These Courts have held that the Fifth Amendment right against self-incrimination is waived. *U.S. v. Albright*, 388 F 2d 719, (4th Cir. 1968, *Alexander v. U.S.* 380 F 2d 33 (8th Cir. 1967), *People v. Combes*, 56 Cal 2d 135, 14 Cal Rptr. 4, 366, P 2d 4 (1961), *State v. Whitlow*, 45 N.J. 3 210 A 2 d783 (1965), *U.S. v. Baird*, 414 F 2d, 700 (2nd Cir. 1969).

Other Courts have held that a defendant may not

be compelled to answer questions put to him by a court appointed psychiatrist. *State v. Olson*, 274 Minn. 225, 143 NW 2d 69, (1966), *Commonwealth v. Pomponi*, 447 Pa. 154, 284 A 2d, 708 (1971).

The calling of a psychiatrist as a witness for the prosecution, who has already examined the defendant as a purely disinterested physician, is a violation of the Fifth Amendment prohibition against self-incrimination. In *Miranda v. Arizona*, 384 U.S. 436, 16 L Ed 2d 694, 86 Sup Ct 1062 (1966) the privilege against self-incrimination has been stated to be "as broad as the mischief as it seeks to guard against." *Miranda, supra*, page 479.

This right is fulfilled only when a person is guaranteed the right "to remain silent unless he chooses to speak in the unfettered exercise of his own will." *Miranda, supra*, page 460.

The Fifth Amendment has been held to apply to proceedings outside of the criminal court and operates to protect "persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves." Miranda, supra, page 467 . . . "The privilege against self-incrimition protects the individual from being compelled to incriminate himself in any manner; it does not distinguish between degrees of incrimination." *Miranda, supra, page* 476.

Secret psychiatric examinations or psychiatric examinations which do not have the approval of the Court have been condemned in at least one state court. *People v. Abdul Karim Al-kanani*, 26 N.Y. 2d 473, 260 N.E. 2d 496. (1970) The Court held that a defendant may not be compelled to answer questions put to him by a state psychiatrist.

A criminal defendant's answers to a psychiatrist's questions should be considered testimonial evidence and not physical evidence. *Schmerber v. California* 384, U.S. 757, 86 Sup Ct 1826, 16 L Ed 2d 908 (1966), *U.S. v. Wade*, 388, U.S. 218, 87 Sup Ct 1926, 18 L Ed 2d 1149 (1967).

In *U.S. v. Baird, Supra*, the Court stated that a Court authorized psychiatric examination proposed no recognizable self-incrimination problems. In the instant case, however, the first examination of Dr. Hunter constituted an examination of the petitioner by a state expert *without court authorization.* In *Baird*, the Court went on to say that a non-court authorized examination would pose grave problems. On page 499, the Court stated:

> "The protections which the Constitution afford to a person charged with a crime apply in full measure to all criminal defendants, including those who rely upon a defence of insanity."

The state should not be allowed to utilize a doctor who had already examined the petitioner as a treateing physician. To allow otherwise would open up this area to many manifest abuses. A very real danger exists in a secret psychiatric examination, vis-avvis, a purely physical examination. A psychiatric examination brings out extremely confidential and intimate facts which an individual might readily and freely give to a trusted physician, but not necessarily to an agent of the state. It is entirely possible that a defendant could be blackmailed into a plea of guilty by threats of exposure of humiliating or incriminating facts, collateral to the defendant's guilt or innocence, if such secret examinations were allowed. The use of extorton instead of facts to obtain convictions would be a very real threat.

In this case, the prosecuting attorney was not content to utilize independent experts. Instead, he sought the services of a psychiatrist who had already examined the defendant before any plea was ever entered. At the time Dr. Hunter, the psychiatrist, first examined the defendant, the defense had no idea that Dr. Hunter would ever be utilized by the State. Since the defense had no knowledge that the psychiatrist was to be an expert for the State, the first examination of the petitioner amounted to a secret examination, which violated the defendant's Fifth Amendment rights against self-incrimination.

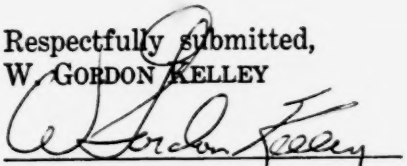
At the time of trial, the objection to the violation of the petitioner's rights against self-incrimination was not raised. It was subsequently raised for the first time on appeal in the Court of Appeals of the State of Washington.

The Court refused to rule upon the Fifth Amendment question, citing the well documented rule that an objection not raised in the trial court will not be heard on appeal. *Peoples National Bank v. Peterson*, 82 Wn. 2d 822, 514 P 2d 159 (1973), *State ex rel Cosmopolis Consol. School No. 99 v. Bruno*, 61 Wn. 2d 461, 378 P 2d 691 (1963). The Court ignored, however, the exception to this general rule. This exception being that matters involving invasion of fundamental constitutional rights may be heard for the first time on appeal. *People's National Bank of Washington v. Peterson, supra, Maynard Investment Co. v. McCann* 77 Wn. 2d 616, 465 P 2d 657 (1970), *United Brotherhood C. J. v. United States* 300 U.S. 395, 91 L Ed 973, 67 S. Ct. 775 (1946), *Weems v. U.S.* 217 U.S. 349, 54 L Ed. 793, 30 S. Ct. 554 (1910, *U.S. v. Atkinson*, 297 U.S. 157, 80 L. Ed 555, 56 S. Ct. 391 (1936). The court below should therefore, have considered the constitutional question raised by the petitioner.

Conclusion

The petition for a writ of certiorari should be ganted.

Respectfully submitted,
W. GORDON KELLEY



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Appendix A

IN THE SUPREME COURT
OF
THE STATE OF WASHINGTON

THE STATE OF WASHINGTON, *Respondent,* *vs.* CHARLES FREDRICK TRADEWELL, *Petitioner.*	No. 43043 Department (620-III) ORDER DENYING PETITION FOR REVIEW

The Court having considered the petition for review of the decision of the Court of Appeals in this cause,

It is ordered that the petition be and it is hereby denied.

Dated this 18th day of December, 1973.
By the Court.

FRANK HALE

Chief Justice

9 Wn. App. 821

Appendix B

IN THE COURT OF APPEALS
OF
THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,
Respondent,

vs.

CHARLES FREDRICK TRADEWELL,
Appellant.

REMITTITUR
No. 620-III
Douglas County
No. 1236
Petition for Rehearing denied
11/12/73
Petition for Review denied
12/18/73

The State of Washington to: The Superior Court of the State of Washington in and for Douglas County.

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division III, filed on October 24, 1973, became the final judgment of this court in the above entitled case on December 20, 1973. This cause is remitted to the superior court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule 55 on Appeal, costs are taxed as follows:

cc: Mr. W. Gordon Kelley
Hon. Fred Van Sickle, Prosecuting Attorney for Douglas County
Hon. William M. Lowry
Reporter of Decisions
Mr. Charles R. Morris, Secretary Department of Social & Health Serv.
Washington State Board of Prison Terms & Paroles

State of Washington, Division III.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Spokane, this 20th day of December, A.D. 1973.

DAVID A. MACCULLOCH
Clerk of the Court of Appeals,
State of Washington, Division III

Appendix C

IN THE COURT OF APPEALS
OF
THE STATE OF WASHINGTON

THE STATE OF WASHINGTON, *Respondent,* vs. CHARLES FREDRICK TRADEWELL, *Appellant.*	No. 620-III Division Three ORDER DENYING PETITION FOR REHEARING

The court having considered the appellant's petition for rehearing and being of the opinion that it should be denied,

IT IS ORDERED that the petition be and it is hereby denied.

Dated this 12th day of November, 1973.
By the court:

Dale M. GREEN

Chief Judge

Appendix D

IN THE COURT OF APPEALS
OF
THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,
Respondent,

vs.

CHARLES FREDRICK TRADEWELL,
Appellant.

No. 620-III
Division Three
Filed Oct. 24, 1973

MCINTURFF, J. — Defendant was charged by information with one count of first-degree assault, and four counts of second-degree assault. He entered a plea of not guilty and a special plea of not guilty by reason of insanity.

Gerald E. Gibbons, M.D., treated plaintiff for injuries he received when he was arrested on December 26, 1971. While treating defendant, Dr. Gibbons noted abnormal behavior on his part and called in Harry D. Hunter, M.D., a psychiatrist, as a consulting physician to determine if the defendant was psychotic. Dr. Hunter interviewed defendant on the morning of December 26, 1971. Later, at the request of the prosecuting attorney, Dr. Hunter again examined defendant on February 14, 1972.

Dr. Gibbons was called as a defense witness and testified concerning the mental condition of defendant on December 26, 1971. Defendant also placed into evidence the history and physical examination report made by Dr. Gibbons.

Thereafter, Dr. Hunter was called by the state as a rebuttal witness and testified that defendant's ab-

normal behavior was not caused by any psychosis, but by drunkenness. He further stated that defendant could distinguish between right and wrong at the time of the criminal act. Dr. Hunter testified he could not segregate in his mind the December 26, 1971 interview with the defendant as consulting physician, and the subsequent February 14, 1972 interview, when he was asked to examine defendant by the prosecuting attorney. Defendant objected to Dr. Hunter's testimony as violating the physician-patient privilege, and at the conclusion of the testimony moved for a mistrial. The motion was denied. The jury returned a verdict in favor of the state, and defendant appeals.

ISSUE: Does a defendant, who has entered a plea of not guilty by reason of insanity, and calls his doctor to testify on his behalf, waive the physician-patient privilege as to a consulting doctor who is called as a rebuttal witness for the state?

The physician-patient privilege has its origin in RCW 5.60.060(4),[1] and has been held to apply in criminal cases by virtue of RCW 10.58.010.[2] *State v. Gibson*, 3 Wn. App. 596, 476 P. 2d 727 (1970). The physician-patient privilege was unknown in the common law and exists as a creation of the legislature. The legislative purpose is to foster this relationship by inspiring confidence in the patient, encouraging him to make a full disclosure of his symptoms to the physician, free of the worry that an embarrassing disclosure might become public knowledge.

---

[1]RCW 5.60.060(4) provides: "A regular physician or surgeon shall not, without the consent of his patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him to prescribe or act for the patient, . . ."

[2]RCW 10.58.010 provides: "Rules—Generally. The rules of evidence in civil actions, so far as practicable, shall be applied to criminal prosecutions."

Court decisions from various jurisdictions reflect a lack of agreement concerning whether there is a waiver of the physician-patient privilege when the patient calls one physician but fails to call another physician who attended the patient for the same or a related ailment. See Annot. 5 A.L.R. 3d 1244 (1966). In some jurisdictions a waiver of the privilege as to one physician constitutes a waiver as to other physicians. The jurisdictions associated with this view adhere to the rationale that a patient calling physicians who testify favorably to his contention waives the physician-patient privilege as to other physicians who treated or examined him for the same condition. In other jurisdictions the courts have reasoned that the legislative policy behind the privilege, *i.e.*, that a patient should be free of the worry that an embarrassing exposure might become public knowledge, would be defeated by applying a waiver.

Relying on *Phipps v. Sasser*, 74 Wn. 2d 439, 448, 445 P 2d 624 (1968), footnote 9, defendant urges that this jurisdiction has not yet adopted either of these positions, and urges this court to adopt the rule that a waiver of the privilege as to one physician does not constitute a waiver as to any other attending or consulting physician. We agree with the defendant that the law in this jurisdiction does appear unsettled. The case of *In Re Estate of Quick*, 161 Wash. 537, 297 P. 198 (1931), and *McUne v. Fuqua*, 42 Wn. 2d 65, 253 P. 2d 632 (1953) appear to support the proposition that waiver of the privilege with respect to one physician also waives the privilege as to subsequent testimony of other physicians who treated the patient for the same ailment or disability.

As noted by the court in *Randa v. Bear*, 50 Wn. 2d 415, 421, 312 P. 2d 640 (1957):

The privilege is that of the patient, and by the

terms of the statute it may be waived by him. The introduction by the patient of medical testimon describing the treatment and diagnosis of an illness waives the privilege as to that illness, and the patient's own testimony to such matters may have the same effect.

In adopting a rule for this jurisdiction we must weigh two varying public policies. On the one hand, the very reason behind the physician-patient relationship is to create an atmosphere of confidence. If the law were otherwise, many needing medical attention might go untreated for feat that what they told the doctor might not remain confidential. On the other hand, if a patient is allowed to pick and choose between physician witnesses and can, by claim of privilege, prevent impeaching testimony from being disclosed to the court, a mockery might be made of justice.

This rationale is compelling. In the instant case defendant called only the physicians who would support his assertion of insanity, and further entered into evidence his medical history and examination records. By doing so the defendant abandoned his right of medical privacy and waived the statutory physician-patient privilege as to any medical testimony which tends to contradict or impeach his medical evidence.

Defendant contends that the initial examination on December 26, 1971, by Dr. Hunter, was without benefit of counsel and therefore denied him his Fifth Amendment rights against self-incrimination. This argument was not before the trial judge to rule upon and comes to our attention for the first time in the reply brief.

The general rule prevailing in this state is that issues not raised in the trial court cannot be raised for the first time on appeal. *Peoples Nat'l Bank of Washington v. Peterson*, ___ Wn. 2d ___ (1973); *State ex*

rel. Cosmopolis Consol. School Dist. No. 99 v. Bruno, 61 Wn. 2d 461, 472, 378 P. 2d 691 (1963).

Secondly, CAROA 43 provides: "No alleged error of the superior court will be considered, unless the same be definitely pointed out in the 'assignments of error' in appellant's brief."

> Exceptions to the foregoing rules respecting issues initially raised on appeal are generally stated in *Maynard Inv. Co. v. McCann*, 77 Wn. 616, 465 P. 2d 657 (1970). They include matters going to jurisdiction, right to maintain the action, illegality, invasion of fundamental constitutional rights, and lack of claim for relief.

Peoples Nat'l Bank of Washington v. Peterson, supra.

Under the circumstances, the alleged error does not fall within the above-enumerated exceptions of *Peoples Nat'l Bank of Washington v. Peterson, supra*, and is therefore not properly before us.

Judgment of the trial court is affirmed.

MCINTURFF, J.

WE CONCUR:

GREEN, C. J.

MUNSON, J.

Appendix E

IN THE SUPREME COURT
OF
THE STATE OF WASHINGTON
IN AND FOR
THE COUNTY OF DOUGLAS

THE STATE OF WASHINGTON,
Plaintiff,

vs.

CHARLES FREDRICK TRADEWELL,
Defendant.

No. 1236
AMENDED
JUDGMENT
AND
SENTENCE
(Upon Conviction)

On the 8th day of March, 1972, this cause came on regularly for hearing, trial and determination before a jury, and the jury having heard evidence, been instructed by the court, and rendered their verdict therein of "guilty" as charged in the Information and Amended Information on each of the five counts contained therein, and rendered four special findings, as to Counts 1, 2, 3 and 4, that the defendant was armed with a deadly weapon at the time of the commission of said Counts 1, 2, 3 and 4. The defendant was asked by the Court if he had any legal cause to show why judgment and sentence should not be pronounced against him, and the defendant stated that he had no such legal cause, NOW, THEREFORE, the Court being fully advised,

IT IS ORDERED, ADJUDGED and DECREED that the defendant, CHARLES FREDRICK TRADEWELL, is guilty of the crimes charged against him in the Information and Amended Information herein, committed as follows, to-wit:

COUNT ONE: That the said CHARLES FREDRICK TRADEWELL in the County of Douglas, State of

Washington, on or about the 25th day of December, 1971, did then and there being unlawfully and feloniously, did, with the intent to kill a human being assault Joe H. Carl with a rifle in the 19th St., and Sunset Highway of the East Wenatchee area, Douglas County, Washington;

and that he shall be punished by confinement for a term of not less than five (5) years nor more than ____ years in such correctional institution under the supervision of the Department of Social and Health Services, Division of Institutions as the Assistant Secretary of the Division of Institutions shall deem appropriate.

COUNT TWO: That the said CHARLES FREDRICK TRADEWELL in the County of Douglas, State of Washington, on or about the 25th day of December 1971, did then and there being unlawfully and feloniously assault one Neva Tradewell with a rifle in the East Wenatchee area, Douglas County, Washington;

and that he shall be punished by confinement for a term of not less than five (5) years nor more than ten (10) years in such correctional institution under the supervision of the Department of Social and Health Services, Division of Institutions as the Assistant Secretary of the Division of Institutions shall deem appropriate.

COUNT THREE: That the said CHARLES FREDRICK TRADEWELL in the County of Douglas, State of Washington, on or about the 25th day of December, 1971, did then and there being unlawfully and feloniously assault one Judy Hall with a rifle in the East Wenatchee area, Douglas County, Washington;

and that he shall be punished by confinement for a term of not less than five (5) years nor more than ten (10) years in such correctional institution under the supervision of the Department of Social and Health Services, Division of Institutions as the Assistant Sec-

retary of the Division of Institutions shall deem appropriate.

> COUNT FOUR: That the said defendant, CHARLES FREDRICK TRADEWELL, in the County of Douglas, State of Washington, on or about the 25th day of December, 1971, did then and there being unlawfully and feloniously assault one Everett L. Gill, Jr., with a knife and rifle, in the 19th St., and Sunset Highway area, East Wenatchee area, Douglas County, Washington;

and that he shall be punished by confinement for a term of not less than five (5) years nor more than ten (10) years in such correctional institution under the supervision of the Department of Social and Health Services, Division of Institutions as the Assistant Secretary of the Division of Institutions shall deem appropriate.

> COUNT FIVE: That the said defendant, CHARLES FREDRICK TRADEWELL, in the County of Douglas, State of Washington, on or about the 25th day of December, 1971, did then and there being unlawfully and feloniously, assault with his fists, one Joe Merz, the Douglas County Undersheriff, while resisting lawful apprehension of himself, in the 19th St., and Sunset Highway area. East Wenatchee area, Douglas County, Washington;

and that he shall be punished by confinement for a term of not more than ten (10) years in such correctional institution under the supervision of the Department of Social and Health Services, Division of Institutions as the Assistant Secretary of the Division of Institutions shall deem appropriate.

IT IS FURTHER ORDERED, ADJUDED and DECREED, that the said sentences are to run concurrently and the said defendant, Charles Fredrick Tradewell, is now hereby committed to the custody of the Sheriff of the aforesaid County to be detained and delivered into the

custody of the proper officers for transportation to, and confinement in, said institution.

IT IS FINALLY ORDERED that the cash bond heretofore deposited in the Registry of the Clerk of the Douglas County Superior Court, shall be exonerated and the passbook evidencing said cash bond shall be returned to the party depositing the same, and the Wenatchee Federal Savings and Loan Association is hereby authorized to relinquish any claim to said funds made by Douglas County.

DONE IN OPEN COURT the _____ day of September, 1972, in the presence of the defendant.

_____

Judge of the Superior Court

Presented by:

_____

FRED VAN SICKLE
Prosecuting Attorney for Douglas County